

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

SEAN MURPHY,	:	
Plaintiff,	:	
v.	:	C.A. No. 14-203S
	:	
CENTRAL FALLS DETENTION	:	
FACILITY CORPORATION, et al.,	:	
Defendants.	:	

**REPORT AND RECOMMENDATION**

Patricia A. Sullivan, United States Magistrate Judge

Plaintiff Sean Murphy, acting *pro se*, has brought claims against several defendants based on his four-month stay at the Donald W. Wyatt Detention Facility after he was sent to Ohio for a federal criminal sentencing but before he was returned to a Massachusetts state facility for a state criminal proceeding currently at the pre-trial stage. In all, eight motions were pending before me at a hearing on October 29, 2014 – Mr. Murphy moved to amend his complaint, the United States moved to substitute itself as a party and all defendants challenged Mr. Murphy’s pleadings with dispositive motions. After the hearing, I granted by text order Mr. Murphy’s motion to amend and the United States’ motion to substitute. I now write separately on the dispositive motions of Defendants AVCORR Management, LLC (“AVCORR”) and Anthony Ventetuolo, Jr. because, unlike the other dispositive motions, they can be granted without delay based on the agreement of Mr. Murphy, AVCORR and Mr. Ventetuolo to the outcome. None of the other defendants object to the granting of AVCORR and Mr. Ventetuolo’s motions.

AVCORR and Mr. Ventetuolo (AVCORR’s President) both filed motions to dismiss and motions for summary judgment based on the premise that neither of them provided any services at the Wyatt during the time period relevant to Mr. Murphy’s claims. ECF Nos. 14, 17, 24, 26.

While Mr. Murphy filed an objection and an affidavit opposing the motions,<sup>1</sup> see ECF Nos. 28, 29, he conceded at the October 29, 2014, hearing that AVCORR and Mr. Ventetuolo should be dismissed from the case. When questioned by the Court, Mr. Murphy confirmed that he assents to dismissal of all claims against AVCORR and Mr. Ventetuolo with prejudice. Accordingly, pursuant to Fed. R. Civ. P. 41(a)(2), I recommend that AVCORR and Mr. Ventetuolo's Motions to Dismiss and Motions for Summary Judgment be GRANTED and that all claims in the Amended Complaint against AVCORR and Mr. Ventetuolo be dismissed with prejudice. ECF Nos. 14, 17, 24, 26.

Any objection to this report and recommendation must be specific and must be served and filed with the Clerk of the Court within fourteen (14) days after its service on the objecting party. See Fed. R. Civ. P. 72(b)(2); DRI LR Cv 72(d). Failure to file specific objections in a timely manner constitutes waiver of the right to review by the district judge and the right to appeal the Court's decision. See United States v. Lugo Guerrero, 524 F.3d 5, 14 (1st Cir. 2008); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ Patricia A. Sullivan  
PATRICIA A. SULLIVAN  
United States Magistrate Judge  
October 30, 2014

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<sup>1</sup> Technically, Mr. Murphy only objected to AVCORR's motions, but given his *pro se* status, this Court liberally construed his filings as also opposing Mr. Ventetuolo's motions. See Ayala Serrano v. Lebron Gonzalez, 909 F.2d 8, 15 (1st Cir. 1990).